

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

IN RE: WINDSPIRE ENERGY, INC. }  
Debtor, }  
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OFFICIAL COMMITTEE OF UNSECURED }  
CREDITORS, }  
Plaintiff, }  
v. }  
GIACOMO MARINI, et al., }  
Defendants. }

3:13-cv-10-RCJ-WGC

**ORDER**

Currently before the Court are a Motion of Defendants Big Sky Venture Capital III, LLC, Big Sky Venture Capital IV, LLC and Greenhouse Capital Partners, LP for Withdrawal of Reference Under 28 U.S.C. § 157(d) and FRBP 5011 (#2), Defendant Noventi Ventures II LP and Noventi LLC's Motion for Withdrawal of Reference as to Adversary Claims Two, Three, and Four Only (#3), and Defendants Marini, Rogoff, Rodgers, Hess, Schwab, Henig, Horn, and Mosebar's Motion for Withdrawal of Reference as to Adversary Complaint Claims One, Three, and Four Only (#7).

**DISCUSSION**

On October 26, 2012, the complaint initiating this adversary proceeding was filed by Plaintiff Official Committee of Unsecured Creditors. (See Beesley Recommendation (#15) at 2). The complaint alleged claims for breach of fiduciary duty, aiding and abetting breach of fiduciary duty, corporate waste, equitable subordination/equitable disallowance, recharacterization, avoidance of fraudulent transfer, avoidance of insider preference, and

1 objection to claim against the various individual and entity Defendants. (*Id.*). Several  
 2 defendants filed motions for withdrawal of reference.

3 In February 2013, Bankruptcy Judge Bruce T. Beesley submitted a recommendation  
 4 to this Court that this Court withdraw the reference to all claims in the complaint. (*Id.* at 4).  
 5 Judge Beesley found that the bankruptcy court did not have constitutional jurisdiction to enter  
 6 a final judgment on the claims of breach of fiduciary duty, aiding and abetting breach of  
 7 fiduciary duty, corporate waste, equitable subordination/equitable disallowance,  
 8 recharacterization, and recovery of fraudulent transfer because those actions were within the  
 9 traditional powers of an Article III court. (*Id.* at 3).

10 The Court now withdraws the reference to all claims in the complaint. As such, the  
 11 motions to withdraw the reference are granted to the extent that all claims are withdrawn.

## 12 CONCLUSION

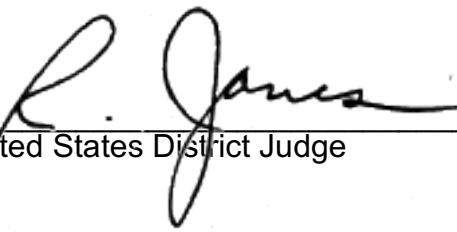
13 For the foregoing reasons, IT IS ORDERED that Motion of Defendants Big Sky Venture  
 14 Capital III, LLC, Big Sky Venture Capital IV, LLC and Greenhouse Capital Partners, LP for  
 15 Withdrawal of Reference Under 28 U.S.C. § 157(d) and FRBP 5011 (#2) is GRANTED to the  
 16 extent that all claims are withdrawn.

17 IT IS FURTHER ORDERED that Defendant Noventi Ventures II LP and Noventi LLC's  
 18 Motion for Withdrawal of Reference as to Adversary Claims Two, Three, and Four Only (#3)  
 19 is GRANTED to the extent that all claims are withdrawn.

20 IT IS FURTHER ORDERED that Defendants Marini, Rogoff, Rodgers, Hess, Schwab,  
 21 Henig, Horn, and Mosebar's Motion for Withdrawal of Reference as to Adversary Complaint  
 22 Claims One, Three, and Four Only (#7) is GRANTED to the extent that all claims are  
 23 withdrawn.

24 IT IS FURTHER ORDERED that the Ex Parte Motion to Remove Counsel From  
 25 CM/ECF Service List (#18) is GRANTED.

26 DATED: This 1<sup>st</sup> day of April, 2013.

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 United States District Judge